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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,998	09/28/2001	Darren J. Cepulis	1662-41000 JMH (P01-3721)	4844
23505	7590	02/03/2005		EXAMINER
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			CHEN, TSE W	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/965,998	CEPULIS ET AL.
	<b>Examiner</b> Tse Chen	<b>Art Unit</b> 2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 August 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-21 and 23-29 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Amendment dated August 27, 2004.
2. Claims 1-21 and 23-29 are presented for examination. Applicant has canceled claim 22.

***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 4-6, 9-12, drawn to a computer system and a method of providing operating system drivers, classified in class 713, subclass 1.
  - II. Claims 2-3, 7-8, 17-18, 23-26, drawn to a read only memory device, a computer system and a method of providing operating system drivers during an operating system installation on a computer system, comprising showing the operating system drivers residing on the ROM as files stored on the virtual disk drive by the BIOS routines, classified in class 713, subclass 2.
  - III. Claims 13-16, 19-21, 27-29, drawn to a method of providing operating system drivers during an operating system installation on a computer system, comprising selecting on a BIOS setup screen one of the first and second sets of operating systems, a selected system, to be installed on the computer system, classified in class 713, subclass 2.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions I-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as self-boot-up with

appropriate drivers without any user interaction or intervention, whereas inventions II and III requires display and input of available drivers. Invention II has separate utility such as showing the operating system drivers residing on the ROM as files stored on the virtual disk drive by the BIOS routines, whereas inventions II and III do not require such a display. Invention III has separate utility such as selecting on a BIOS setup screen one of the first and second sets of operating systems, a selected system, to be installed on the computer system, whereas inventions I and II do not require such a user selection. See MPEP § 806.05(d).

5. Because these inventions are distinct for the reasons given above and the search required for each of the groups are different, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tse Chen whose telephone number is (571) 272-3672. The examiner can normally be reached on Monday - Friday 9AM - 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tse Chen  
January 21, 2005



LYNNE H. BROWNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2120